

SIKKIM

GOVERNMENT



GAZETTE

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GANGTOK

No. 11(656)L&PAD/2021/09

Dated: 07.09.2022

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 25th day of August, 2022 is hereby published for general information: -

THE SIKKIM REGISTRATION AND LICENSING OF TOURIST TRADE ACT, 2022

(Act No. 22 of 2022)

AN

ACT

to provide for registration and licensing of persons, entities and organisation engaged in tourist trade and matters connected therewith.

Be it enacted by the Legislature of Sikkim in the Seventy-third Year of the Republic of India, as follows:

CHAPTER - I

PRELIMINARY

- Short title, extent and commencement.**
1. (1) This Act may be called the Sikkim Registration and Licensing of Tourist Trade Act, 2022.
 - (2) It extends to the whole of Sikkim.
 - (3) They shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.
- Definitions.**
2. In this Act, unless the context otherwise requires;
 - (a) "Adventure Sports" means an activity undertaken through the medium of land, water and air either for recreation or for sports

and also perceived as high risk of life. It includes sports such as paragliding, bungee jumping, parasailing, parajumping, paramotor, hand gliding, hot air ballooning, ultracraft, micro-light flying, kayaking, river rafting, paddling boat, water scooter, mountain biking, mountain expedition, camping, trekking, skiing, zipline, high rope course, hiking, go-kart, all-terrain vehicle (ATV), rock climbing or any other related sports, as notified by the State Government from time to time;

- (b) "Adventure Tour Operator" means a person or company or firm operating an adventure sports for sports entertainment business or for commercial purpose linked to tourism leisure entertainment;
- (c) "asset" means an infrastructure in the form of wayside amenity, cafeteria, guest houses, resting plaza, parking yard, etc., which are constructed by Tourism and Civil Aviation Department and leased out to the locals;
- (d) "Appellate authority" means the person so designated by the State Government to perform the duty of appellate authority against the orders of the prescribed authority.
- (e) "bed and breakfast" means a small lodging establishment that offers overnight accommodation and breakfast (hereinafter referred to as the "B&B"). Bed and Breakfast establishments are often private family homes having one or more additional rooms for lodging. This kind of establishment has the host living and offering service to the tourist or travellers;
- (f) "defaulter" means a list of tourism entities, individuals i.e., person or agency, firm, organisation operating the business, performing or engaged in activities, in tourism sector, which are considered unacceptable by the Government for any of the following reasons;
 - (i) contravention of policies;
 - (ii) non-compliance with Standard Operating Procedures (hereinafter referred to as the "SOP");
 - (iii) for act of commission or omission, as disallowed under the laws in force;
 - (iv) any other reasons as may be communicated in writing by the enforcement and compliance monitoring division of the Department of Tourism and Civil Aviation.
- (g) "Certification" means the process of certifying an entity, and endorsing the attainment of certain proficiency or capability, commensurate with prescribed standards of service delivery and mandated requirements and modalities to be complied with;
- (h) "camping" means an outdoor activity where a person spends recreational time in tents for one or more days in designated camping sites;

- (i) "dealer" means a person or his agent running a business of selling any notified article of tourist merchandise in a tourist area;
- (j) "Enforcement Officer" means a person designated as Enforcement Officer under the Act;
- (k) "Government" means the Government of Sikkim;
- (l) "hotel" means commercial premises where a person stays for short period of time while travelling or on a holiday or on business;
- (m) "holiday home" means an apartment, cottage or a bungalow of a person which he lets out for the commercial purpose for a certain period;
- (n) "home stay" means a form of tourist accommodation, that allows visitors, tourists, travellers to stay at the houses of local families, residents and gives the opportunity to the tourist or traveller to experience the local lifestyle, culture and cuisine, undertake village walks, field visits, participate in agro-farm based activities, witness making of handicrafts etc.;
- (o) "home stay operator" means person or an entity who operates the homestay;
- (p) "health and wellness facilities" means an establishment or an institution, which offers health services for rejuvenation of mental and physical state of a person;
- (q) "Licensing" means authorisation of the Government permitting the conduct of operation or business, duly complying with the policies laid down with regard to such operations or entity;
- (r) "Lesser" means the State Government, through the Department of Tourism and Civil Aviation.
- (s) "Lessee" means a person or tourism entity who is given lease possession of the tourism infrastructure after participating in tender or in such other appropriate selection process and is awarded such lease. Such Lessee is thereafter entitled to run and manage the infrastructures leased in accordance with the provisions of the lease agreement upon paying the appropriate lease amount.
- (t) "lease agreement" means a document guiding modalities of operation, maintenance, lease term, lease amount, as agreed upon between the Lessee and the Department;
- (u) "MICE Tourism" means a sector of tourism which deals with providing services for business events, activities, meetings, conventions, conferences, exhibition, etc., MICE is an acronym for Meeting Incentives Conferences and Exhibitions (herein referred to as the "MICE");
- (v) "Notified Article for tourist trade" means any article notified as a tourist merchandise by the Government for the purpose of sale, retail, trade or operation of business;

- (w) "offence" refers to deviant or unacceptable practices, activities and operations contrary to public interest, fair business or act(s) of commission or omission specifically stated as constituting an offence under the provisions of this Act. It includes dishonesty, cheating, touting, impersonation, obstruction in allowing free choice of merchandize trade, stay or travel arrangements; charging a price higher than permissible; false declaration; failure to execute an order of the prescribed authority within stipulated time or for violation of the terms and conditions applicable in an agreement for providing services or managing a facility or an asset leased out;
- (x) "prescribed authority" means, an authority designated as prescribed authority by the State Government under the Act;
- (y) "pilgrims" means a person or a group of persons who travels to places for religious purpose;
- (z) "porters" means any person employed by the travel agencies or tour operators to carry the luggage and other loads for the tourist or traveller;
- (aa) "rafting" means recreational outdoor activity, which uses an inflatable raft to navigate river or water body;
- (bb) "resort" means a commercial establishment with large spread out of land which offers variety of recreations such as sports, entertainment, spa and other recreations apart from food, beverages and lodging;
- (cc) "registration" means the authorisation of the State for constitution, establishment and formation, of tourism entity whether it is proprietorship, partnership, company, society, trust or co-operative;
- (dd) "spa" means therapeutic services which includes various types of body massages, sauna and steam baths, etc.;
- (ee) "State" means State of Sikkim;
- (ff) "tourism entity" means an establishment or organization registered for offering tourism related services, which provides infrastructure, products and services for tourist and travellers for leisure, pilgrimage, education, entertainment, meetings/ conferences or business purpose. Tourism entity includes hotels, resorts, spa, health and wellness facilities, homestays, holiday homes, MICE tourism facilities, agencies offering business facilitation, event facilitations, travel agents, tour operators, tour guides, porters, logistic service providers, dealers in tourist merchandize, adventure sports operator, farm based tourism service providers, service offerings with training and recreational components, services for high value tourism corridor or any other service facilitator engaged in tourism sector including a private operator, providing services under Private Public Partnership model;

- (gg) "travel agents or a tour operator" means person or a company who makes travel arrangements for a tourist;
- (hh) "tourist or traveller" means a person or a group of persons, travellers, visitors, pilgrims who visit the State from any part of India or outside for tourism, leisure, business, educational or for medical purpose;
- (ii) "tour guide" means person who takes tourist or travellers on sightseeing and provide assistance and information regarding the places of visits and tourist destinations.

CHAPTER – II

REGISTRATION, LICENSING AND RENEWAL THEREOF FOR TOURISM ENTITY

License for tourism operations.

3. The State Government shall grant a certificate which authorises a person or an entity to conduct business or operations in tourism sector in designated locations or area, complying with the prescribed policies, standard operating procedures, guidelines, and directions as are notified from time to time in the Rules under this Act or by Notification by the Prescribed Authority.

Obtaining a tourism operations trade license.

4. (1) Any person intending to undertake any tourism operation, provide tourism services and facilitation, shall, before carrying out such operations as a tourism entity, apply for tourist trade license to the prescribed authority in the prescribed manner as prescribed in the Rules:

Provided that any person already carrying operation as tourist entity on the date of commencement of the Act, shall apply for the said license within 60 (sixty) days from the date of commencement of this Act.

- (2) Every application made under sub-section (1) shall be disposed of within a period of 30 (thirty) days from the date of receipt of application.
- (3) No person shall conduct trade business, operations or provide tourism related services or carryout retail trade of tourist merchandise or offer any other facilitation services or support related to tourism, unless a licence to operate is obtained for such tourism trade, operations or service delivery in the tourism sector.

Registration and Licensing Authority.

5. For the purposes of overseeing, managing, monitoring and enforcing the provisions of this Act, the State Government may, by notification, designate prescribed authority for enforcing the provisions of this Act for specific operations such as grant of license or renewal thereof; registration or renewal thereof; for enforcement and monitoring of compliance with policies, which includes imposition of penalties and taking cognizance of an offence and prescribing penal measures of fines and in case of repeat of offences de-licensing or de-registration

for a time period or in perpetuity. The Government may prescribe one or more prescribed authority in respect of specific areas or operations.

Registration.

6. (1) Registration is the recognition and regulation of the identity of the entity operating in the tourism industry, in order to authorize such entity to carry out tourist related activities, offer tourist related services, conduct business or operation in the tourism sector. By virtue of such registration, the entity can sue or be sued under such identity.
- (2) The object of registration is to bring all forms of tourism related business or trade, under the ambit of the Department of Tourism and Civil Aviation in order to regulate and enforce accountability and ensure compliance with policies, SOPs, and guidelines of the State Government in the course of conduct of various operations and activities.

Registration mandatory before applying for Trade License.

7. (1) Any person intending to run a tourism entity shall, before applying for the Trade License, apply for registration with the Department of Tourism and Civil Aviation in the prescribed manner as detailed in the Rules under the Act and or by Notification by the Prescribed Authority:

Provided that any person already operating a tourism entity on the date of commencement of the Act shall apply for registration within 60 (sixty) days from the date of commencement of this Act.

- (2) Every application made under sub-section (1) shall be disposed of within a period of 30 (thirty) days from the date of receipt of application.
- (3) No person or entity shall run a tourist entity unless it is registered in accordance with the provisions of this Act.
- (4) Any person operating business or trade without such registration as above is liable to be proceeded against in keeping with the provisions of this Act.

Process of application for registration or renewal thereof.

8. (1) Any person who intends to file for registration of his tourism entity shall submit an application along with the requisite documents before the prescribed authority, namely:-
 - (a) Certificate of Identification or Sikkim Subject Certificate or Residential Certificate;
 - (b) proof of residence;
 - (c) Memorandum of Association in respect of society or trust or firm or company;
 - (d) PAN card;
 - (e) Aadhar;

- (f) identity proof or documents of owner, manager, person governing business, as provisioned in Memorandum of Association;
 - (g) agreement undertaking drawn for carrying out operations.
- (2) Every person who intends to file for renewal of his tourism entity registration on or before the expiry of the tenure of registration shall submit an application along with the requisite documents such as filing of returns, audited accounts statement and annual report before the prescribed authority:

Provided that any person or entity already operating on the date of commencement of this Act, shall submit the requisite documents within 60 (sixty) days from the date of commencement of this Act.

- (3) The prescribed authority shall direct the name and the particulars of the tourism entity to be entered in the register maintained for the purpose in physical or electronic form and shall issue a certificate of registration or renewal of registration to the tourism entity in the prescribed Form-I in physical or electronic format upon satisfying the requirements for registration or renewal of registration.

**Provisional
Registration
Certificate/
Registration
Certificate.**

9. (1) Any person or entity who has filed for registration shall be given a provisional registration certificate, upon fulfilment of prescribed terms and conditions and submission of requisite documents with a validity of 6 (six) months.
- (2) A registration certificate shall be granted, after the documents are verified with the receipt of clearances from the other state Departments and agencies, viz:-
- (a) Gangtok Municipal Cooperation;
 - (b) Fire Department;
 - (c) Urban Development Department;
 - (d) Excise Department;
 - (e) Pollution Control Board; and
 - (f) Health and Family Welfare Department.
- (3) Registration Certificate issued under sub-section (2) shall be valid for 3 (three) years and can be renewed on or before the expiry of such period

**Renewal of trade
license.**

10. (1) Any person who intends to file an application for trade license shall submit an application along with the requisite documents before the prescribed authority such as:
- (a) Certificate of Identification or Sikkim Subject Certificate or Residential Certificate, as the case may be;
 - (b) proof of residence;

- (c) address of building location or office premises from where he intends to operate;
 - (d) he shall also furnish the details of the operations and activities related to tourism which he intends to perform, evidence of his qualifications and capability to perform such operations and other details as may be specified in the rules formulated and notified in this regard.
- (2) Any person, who intends to file for renewal of his Trade License for tourism related business, shall have his business registered with the Department of Tourism and Civil Aviation.
 - (3) The applicant shall provide details of the operations and activities related to tourism which he intends to perform, evidence of his qualifications and capability to perform such operations and other details as may be specified in the Rules formulated and notified in this regard.
 - (4) Every person who intends to file for renewal of trade license on or before the expiry of the trade license shall submit an application along with the requisite documents such as those specified in the rules formulated and notified in this regard:

Provided that any person or entity already operating on the date of commencement of this Act, shall submit the requisite documents within 60 (sixty) days from the date of commencement of this Act.

**Refusal or
cancellation in
respect of
registration,
licensing or
renewal thereof.**

- 11. (1) The prescribed authority may refuse and may by order, in writing, cancel the registration or license of the tourism entity as the case may be, and remove the relevant entries from the register, for registration or license of tourism entity, travel agents, guides, porters and adventure sports operator, under any of the following grounds if:-
 - (a) tourism entity is engaged in unlawful possession of any explosive substance of a nature likely to endanger life or to cause serious injury to property;
 - (b) a tourism entity operator is convicted of any offence punishable under the Sikkim Anti-Drugs Act, 2006 and 3 (three) years have not elapsed since the expiry of the sentence imposed upon him;
 - (c) a tourism entity is convicted of any offence under the Arms Act, 1959 and 3 (three) years have not elapsed since the expiry of the sentence imposed upon him;
 - (d) a tourism entity is convicted of any offence under Immoral Traffic Prevention Act, 1956 and 3 (three) years have not elapsed since the expiry of the sentence imposed upon him;
 - (e) the tourism entity employs child labour contravening the provisions of the relevant law in force;

- (f) the premises of the tourism entity do not conform to the prescribed standards;
- (g) the persons managing the entity and its staff, do not possess the requisite qualifications and criteria for employment;
- (h) the tourism entity, as the case may be is convicted of any offence under Chapter XIV and XVI of the Indian Penal Code, 1860 (45 of 1860) or under any of the provisions of this Act or any offence punishable under any law providing for prevention of hoarding, smuggling, or profiteering or adulteration of food or drugs or corruption and 3 (three) years have not been elapsed since the termination of the sentence imposed upon him;
- (i) the entity do not follow the safety precautions or possess technical qualifications in case of adventure sports operations as prescribed by the Government;
- (j) the tourism entity contravenes the standard operating procedure and his business or operation is not compliant with the SOPs or has violated policies of the State or public interest or has not complied with specific directions of the Department;
- (k) the tourism entity ceases to operate for more than 2 (two) years;
- (l) the tourism entity fails to comply with any of the provisions of this Act or rules framed;
- (m) the tourism entity does not comply with the rules prescribed in respect of health requirement, safety rules, notified directives, standard operating procedures, in appropriate behaviour of his manpower or staff, deviation from required protocols, etc.;
- (n) the tourism entity operator, as the case may be is declared insolvent by a court of competent jurisdiction and has not been discharged;
- (o) any complaint of any kind of serious or grave offence is received and proved against the tourism entity;
- (p) the tourism entity or operator is declared defaulter by the prescribed authority;

Provided that the entity or operator concerned should be given a reasonable opportunity of being heard.

Fixation of rates. 12. The prescribed authority may fix the reasonable rates which may be charged by the tourism entity for the services rendered by them.

Appellate Authority. 13. The State Government shall, by order, appoint an appellate authority who shall be of the rank of Secretary or above.

Appeal.

14. (1) Subject to the provisions of sub-section (2) an appeal shall lie from every order of the prescribed authority under this Act to the appellate authority.
- (2) Every such appeal shall be preferred within 30 (thirty) days from the date of communication of the order; provided that the appellate authority may entertain the appeal after the expiry of the said period of 90 (ninety) days, if he is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.
- (3) The appellant shall have a right to be represented by a counsel or by a duly authorised agent and the prescribed authority may be represented by such officer or person as the prescribed authority may appoint.
- (4) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such inquiry as it deems proper, pass such order as it may deem fit, after recording the reasons thereof.

Revision.

15. (1) The Government shall, by order, appoint a revisional authority. After application is made by the aggrieved party, such revisional authority shall call for records of any case disposed by an appellate authority for the purpose of examining or ascertaining the legality and correctness of any order passed by the appellate authority.
- (2) The revisional authority shall pass such order thereupon as it may deem fit and such order shall be final.

Defaulter of tourism entity.

16. (1) The prescribed authority may, on proof of complaint of malpractice or for any other offence committed under this Act including acts of commission or omission as mandated or detailed in the notified policies, rules and regulations and terms and conditions of operations, record such reasons declare a defaulter, a tourism entity operator, for such period as the prescribed authority may deem fit after taking into consideration the nature of malpractice or the gravity of offence.
- (2) Defaulting tourism entity operator tantamount to discontinuance of permission to function and operate as a tourism entity and pursue tourism trade.
- (3) The particulars of tourism entity operators declared as defaulter shall be exhibited at noticeable places in all tourist areas or spots and notified to all travel, trade and other concerned organisations after the order defaulter has been declared.

CHAPTER - III

OFFENCES AND PENALTIES

- Penalty for default and non-registration and operating without licence.** 17. Any person carrying on the business of a tourism entity without proper certification of licence and registration under this act or in violation of any of the provisions of this Act shall be punishable on conviction by the prescribed authority with fine and in case of repeat offences de-licensing or de- registration for a time period or in perpetuity, as may be prescribed:

Provided that a person, who has made an application within the prescribed period and is pending disposal, shall not be a defaulter for the purposes of this section.

- Penalty for making false statement.** 18. Any person required to make a statement or declaration or submit information as required to fulfil formalities under the provisions of the Act, wilfully makes a false statement misrepresentation or suppresses a material fact with an intention to mislead the prescribed authority or fraudulently submits details which are incorrect, he shall be liable to punishment by fine and in case of repeat offences de-licensing or de-registration for a time period or in perpetuity, as may be prescribed in the rules or by notification by the Prescribed Authority.

- Certificate and documents shown to prescribed authority or to his agents on demand.** 19. (1) Any person registered under this Act, shall at times, on demand by the prescribed authority, produce his documents required under this Acts and more specifically documents evidencing compliance with tourism policies, rules and regulations and terms and conditions.
- (2) Any person who refuses on demand to show his documents to the prescribed authority shall be liable to be punished on conviction, with such fine, as may be prescribed in the rules or by notification by the Prescribed Authority.

- Obstructing lawful authorities.** 20. If any person wilfully obstructs or offers any resistance to, or otherwise interferes in the discharge of the functions of the prescribed authority or any officer authorised to exercise power, or performance of duties conferred or entrusted to him or in pursuance of the objects and provisions Act or the rules made there under, he shall be liable to punishment by fine and in case of repeat offences de-licensing or de-registration for a time period or in perpetuity, as may be prescribed in the rules or by notification by the Prescribed Authority.

- Penalty for carrying out unauthorized operations, activities and tourism trade.** 21. If any person performs, offers any tourism trade or delivery of services not authorised under the provisions of this Act or contrary to notified rules and regulations shall be liable to punishment by fine and in case of repeat offences de-licensing or de-registration for a time period or in perpetuity, as may be prescribed in the rules or by notification by the Prescribed Authority

- Penalty for non-compliance with** 22. Any person or tourism entity who does not comply with policies, Standard Operating Procedures and directives made applicable in

policies, SOP and protocols notified.

respect of any tourism operation, activity or act of commission or omission as notified or enforced or communicated shall be punishable on conviction with fine as may be prescribed in the rules or by notification by the Prescribed Authority.

Penalty for misuse of Government or Tourism Brand or Logo.

23. (1) If any person or tourism entity misuses the brand of Government without the permission or authorisation under this Act, he shall be liable to punishment by fine and in case of repeat offences de-licensing or de-registration for a time period or in perpetuity, as may be prescribed in the rules or by notification by the Prescribed Authority
- (2) Misusing the Government tourism brand is construed as the unauthorised use of identification mark, logo or brand name of state tourism.

Penalty for unauthorized sale and trading in tourist merchandise.

24. Any person or tourism entity who indulges in selling any articles, materials, goods, etc., in any tourist area without any licence or registration or permission under the Act or the concerned Government agencies, then such articles, materials, goods, etc., shall be confiscated by the prescribed authority or his agents. The said articles may be returned on payment of fine, as may be prescribed unless such return would not be in public interest. The reason for any such non return is to be recorded and communicated to the person for whom the article or goods were confiscated.

Penalty for habitual offenders.

25. Any habitual or repeat offenders under the provisions of this Act shall be punishable by fine and in case of repeat offences de-licensing or de-registration for a time period or in perpetuity, as may be prescribed in the rules.

Penalty for collections of excess charge or fees.

26. Any person or tourism entity found to charge fees or fares in excess of the ceiling prescribed in respect of the services, as prescribed by the rules in the rules, is liable to be punished by fine and in case of repeat offences de-licensing or de- registration for a time period or in perpetuity, as may be prescribed in the rules or by notification by the Prescribed Authority.

Proxy operations.

27. (1) Certificate of Registration or license is non-transferable.
- (2) Any person who lends, transfer or assigns the certificate or registration or licence issued under this Act, without permission in writing of the prescribed authority, shall be liable for by fine and in case of repeat offences de-licensing or de-registration for a time period or in perpetuity, as may be prescribed in this Rules or by notification by the Prescribed Authority.

Trial of offence.

28. The cognizance for any acts of commission or omission constituting an offence and violation under the provisions of the Act requiring imposition of penalty in the nature of fines can be taken by the designated prescribed authority for registration, licensing or enforcement.

CHAPTER – IV

POWER OF THE GOVERNMENT TO MAKE RULES

Power to make rules.

29. (1) The Government shall, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.
- (2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for:-
- (a) prescribing fines in respect of various offences detailed in the provision under Chapter III or the manner in which cognizance shall be taken of any offence and the due process of law thereof;
 - (b) the maintenance of registers, books and forms by tourism entity;
 - (c) the application form for registration and renewal of registration;
 - (d) the certificate of registration or License;
 - (e) the registration fee or licensing fee;
 - (f) the application form for obtaining the tourist trade license and its renewal;
 - (g) the fixing of ceiling rates/fee, charges in respect of various services;
 - (h) the categorisation of the description of offences, severity of offences and corresponding fines;
 - (i) the filing of First Information Report in respect of offences; the severity of non-compliance;
 - (j) notices served under this Act;
 - (k) safety precautions to be ensured or SOP for compliance by the tourism entity in respect of various operations and activities;
 - (l) maintenance of hygiene and cleanliness and health related aspects;
 - (m) quality of the services provided by the tourism entity;
 - (n) enforcement and inspection;
 - (o) standards, processes and practices for rent or lease assessment, determining and notifying lease charges;
 - (p) any other matter which may be prescribed or in respect of which rules are required to be made by the State Government.

Role of Police Officer or Enforcement Officer.

30. (1) The Government may, by order, appoint or designate enforcement officers for the following purposes, namely:-
- (a) implementing the provisions of this Act;

- (b) to monitor compliances; and
- (c) to deal with any offence committed under this Act.

- (2) Every Police Officer or Enforcement Officer notified or designated who comes across any offence committed under this Act or under any rules made under this Act shall give immediate information to the prescribed authority regarding the same and shall assist the prescribed authority for taking appropriate action for enforcement of the provisions of this Act.

Power of the Government to enter, inspect.

- 31. (1) The Government may authorise the prescribed authority or any officer to enter the premises of any tourism entity to confirm whether the provisions of this Act are being implemented by such tourism entity conducting the tourism trade or delivering tourism services in the manner envisaged. Such officer may require the production of any document kept by the tourism entity for verification of compliance, commensurate with the provisions of this Act or rules made thereof.

Process of Enforcement and Inspection.

- 32. (1) The Government shall have the power to issue directions in compliance with policies of the Government, as it may deem fit.
- (2) The Government may authorise the prescribed authority or Police Officer, Enforcement Officer or any other officer to inspect or examine whether the tourism entity has complied with the policies laid down by the Government and has adhered to the Standard Operating Procedures (SOPs).
- (3) If the tourism entity is found contravening provisions of the Act, policies or SOPs, the Government shall have the power to issue notices to the tourism entity and to show cause as to why penal action may not be instituted for contravening SOPs and mandated requirements.
- (4) Upon failure to respond satisfactorily, the tourism entity may be subject to such penalty in keeping with the provisions of this Act and rules made thereof; on the basis of a summary proceeding in respect of fine by the prescribed authority.

Indemnity.

- 33. No suit, prosecution or other legal proceeding whatsoever shall lie against the Government or any person in respect of anything which is done or intended to be done in good faith under the provisions of this Act.

CHAPTER - V

CONSULTATIVE COMMITTEE FOR ENGAGING STAKEHOLDERS

Tourism Development Consultative Committee.

- 34. The Government may, by notification in the Official Gazette, constitute a Consultative Committee for the purpose of engaging stakeholders and receiving feedback, suggestions or improvements concerning any tourist operation, activity or trade, from the stakeholders.

CHAPTER - VI

TOURISM DIRECTORATE

- Establishment and constitution of the Directorate.** 35. The State Government may, in consultation with the Additional Chief Secretary and Secretary of Tourism and Civil Aviation Department, constitute a Directorate of Tourism in the Department of Tourism and Civil Aviation to look after day to day management of operations and activities related to tourism, facilitated through e-Governance initiatives and online transactions for delivery of services, through Tourism portal, supported by a Digital Operations Task Force.
- Directorate.** 36. (1) The Directorate shall be the body executing and implementing the policies, programmes and schemes of the Department of Tourism and Civil Aviation in keeping with the delegation of powers as notified by the State Government.
- (2) The Directorate shall be headed by the Director who shall be an Officer of the rank of Special Secretary or Additional Secretary to the Government.
- Operations and Management.** 37. The Directorate shall organise its operations and manage its affairs under various divisions with manpower commensurate with the nature, scope and extent of operations and activities.
- Functions of Directorate.** 38. (1) The functions of the Directorate so constituted under Section 35 of the Act shall include the following, namely:-
- (a) promotion of Sikkim Tourism, formulation of attractive packages, corridors for high end, value added tourism;
 - (b) facilitating the operations for MICE tourism, adventure tour operations, health and wellness centres, rural tourism, home stays, farm based attractions for tourists, trekking, camping, mountaineering and community based cluster approaches for managing and maintaining tourist attractions;
 - (c) issue of Tourism Trade Licenses and Renewal thereof;
 - (d) registration of tourism entities, operators, partners, facilitators;
 - (e) development of Portal, updation and validation of contents on the portal, convergent multi-mode delivery of information to tourists and stakeholders;
 - (f) management of digital operations in the portal for delivering information and services to tourists aided by the back end team and digital operations task force entrusted with the task of overseeing digital operations;
 - (g) engaging, managing and enabling online transactions facilitating the operations of various stakeholders, owners or managers of assets that are leased out;

- (h) tourist facilitation, Issue of Online permits, tourist grievance redress, resolution on issues or complaints and single window facilities for tourists with the network of tourism information centres, enforcement officers and police;
- (i) building capacity of Stakeholders, training of tour guides;
- (j) regulatory matters, issue of notices, action to be taken in respect of non-compliance with policies or SOPs;
- (k) formulation of rules, directives, SOPs, notifications;
- (l) enforcement of conduct of tourists and stakeholders or partner agencies and facilitators;
- (m) records management and Management Information Systems, Research and Analysis;
- (n) operation and Management of Tourist Assets and Infrastructure, development of facilities with the services of the Engineering Division;

Fund for operations and management.

39. (1) There shall be constituted fund for Operation and Management of activities and operations undertaken in pursuance of the objects of this Act and to implement various provisions under this Act.
- (2) The Operation and Management fund shall consist of all accruals which include 3% on account of licensing and renewal of licensing and fines imposed and collected by prescribed authorities, penalties in respect of delays or defaults or any other receipts under the provisions of the Act or collection of lease rentals.

Apportioning and remitting license fees collected and Government Receipts.

40. (1) The Directorate shall apportion and remit license fee collected from various tourism operators, agencies and entities to Gangtok Municipal Corporation, Urban Development Department and Rural Development Department, in a manner as may be prescribed and decided by the State Government.
- (2) The requisite funds to be accounted for as receipts in the Government and shall be deposited in the relevant head in the budget.

CHAPTER - VII

ASSETS AND INFRASTRUCTURE

Maintenance and management of the tourism infrastructure and assets.

41. The Government shall maintain and manage the tourism infrastructure developed at various tourism destinations, entrusting the responsibility of maintenance and management to individuals, agencies or community groups, following a process that is duly notified and detailed in the rules under this Act.

- Management of operations relating to Assets and leasing of Assets.**
42. Processes associated with valuation of assets, their categorisation and associated modalities for lease, choice and selection of lease models, partnership arrangements, performance indicators for operations and management, support and concessions from the Government are to be formulated and progressively notified online. Rewards and incentives for professional management of Tourism Infrastructure and assets and best practices be also formulated and notified.
- Selection of individual or agency or entity for maintaining asset.**
43. To the extent possible, the local Panchayats and communities are to be involved in tendering or selection of the individual or agency or the entity that would maintain and manage the asset. Assets are to be leased out for operations and management for a period of 3 (three) years and renewable for an extended period of not more than 2 (two) years or one year at a time, subject to compliance with appropriate terms and regulations notified or such other standard practices as are notified in the rules.
- Procedure to be followed in leasing larger assets.**
44. Larger assets may be considered for being leased out under appropriate Public Private Partnership arrangement under an appropriate modal or agreement, articulating the manners in which revenue accruals and expenditure in respect of operations, repairs and maintenance are to be shared, terms and conditions and modalities for investments to be made to provide augmented value added services, upkeep and maintenance of infrastructure, standard of services that are to be provided, exit conditions and processes to be followed upon exit, employment of persons from the local community and such other terms and conditions as agreeable between the parties.
- Developing Tourist Infrastructure and attractions through cluster approach.**
45. (1) A cluster approach be adopted for developing tourist infrastructure giving due importance to recreation, entertainment, "nature connect" experiences and for taking up initiatives that would promote local domestic tourism, as well as, catering to the needs of tourists and travellers from outside the State.
- (2) Required initiatives in terms of making tourist destinations more attractive, tourism gap infrastructure to enhance ambience, attractions, aesthetic structures, decor, experiences for tourists are to be given due importance. These initiatives may be pursued leveraging local talent, capacities and involvement of local communities.
- Measures to be taken by the Government.**
46. The Government may take measures to augment community-based tourist experiences, rural homestay, and farm-based activities and involve the local community in the development of public attractions, utilities, outdoor infrastructure and public parks.
- Facilitation from Government Institutions and agencies.**
47. Government institutions and agencies may make efforts to enhance ambience, attractions, utility and upkeep of public assets making them more attractive, revenue generating and making them capable of offering exemplary tourist experiences.

Notification of areas for tourist activities.

48. The State Government may notify designated areas for camping, adventure activities, bird watching, and nature trails.

CHAPTER - VIII

TOURISM SERVICES DELIVERY AND ENTERPRISE OPERATIONS

Online Tourism Services Delivery.

49. Directorate of Tourism shall make efforts to provide information and services online through the Tourism Portal and progressively offer multiple channels for information dissemination and service delivery through a network, comprising of tourism information centres, tourist guides, mobile apps, engravings in stones and instructions on sign boards as also printed or digital forms, brochures, booklets.

Digital Platform and online transactions.

50. Digital platform and online transactions for delivery of information and services be implemented through a portal, operated and managed in the back end with a dedicated team of back office staff trained in operations related to monitoring and managing transactions and resolution of issues.

Progressive Development of online services.

51. (1) The following online services shall be offered to facilitate tourists and travellers, namely:-
- (a) to book tourist packages;
 - (b) make bookings for accommodation;
 - (c) avail travel related services;
 - (d) view, select and book B&B (Bed and Breakfast) establishments like service apartments, home stays;
 - (e) rural tourism and adventure packages;
 - (f) treks;
 - (g) mountaineering expeditions;
 - (h) MICE packages;
 - (i) health and wellness offers and other forms of tourism related services.
- (2) Software applications and web portal services shall be developed to offer online services, namely:-
- (a) issue of permits;
 - (b) registration or renewal of registration and licensing of hotels, restaurants, tour operators, adventure tour operators, home stays, B&B establishments and service apartments;
 - (c) for leasing out tourism infrastructure and assets;
 - (d) for operation and management by lessee and managers.

- (3) A facility for lodging online complaints and seeking emergency relief and rescue may be provided.

**Notifying
Standard
Operating System.**

52. The State Government may, by notification, issue SOPs to be observed by the tourist amenities and stakeholders as also by tourist and travellers visiting Sikkim which would comprehensively detail safety, health related aspects to be observed, behaviours compliant with environmental conservation and observance of civic sense.

**Ownership of
Digital records
and data.**

53. The data relating to tourists, tour operators, service providers, partners, logistic service providers and other stake holders shall be owned by the Government under secure infrastructure with appropriate security of data to ensure that information and data are authorised for use in the manner prescribed and envisaged, with due attention to privacy of data, confidentiality relating to health and personal data.

**Developing ICT
Infrastructure for
online tourism
services.**

54. Adequate measures to be employed and Information and Communication Technologies (ICT) infrastructure shall be developed for availability of online services with required authenticity, reliability and effective management of online services.

**Publicity for
Tourism Services.**

55. Directorate of Tourism may make an effort to publicise online services that are offered, build capacity in the stake holders encouraging their participation to update and augment the quality of tourism services.

CHAPTER - IX

RESPONSIBILITIES AND DUTIES OF TOURIST, ROLE OF STAKE HOLDERS

**Regulating
conduct of
tourists and
stakeholders.**

56. The Government through the Directorate of Tourism may formulate SOPs, code of conduct, guidelines, detailing the manner in which tourist or traveller may avail various tourist facilities conduct themselves with regard to respecting, protecting, and safeguarding culture, heritage, ethnic tradition and environment while visiting various tourist destinations. Such directions and notices communicating code of conduct and regulation of tourist behaviours shall be widely disseminated for compliance by tourists and travellers. Provisions with regard to guiding the behaviour of tourist and travellers may be detailed in the rules with penalty provisions as may be necessary.

Duties of Tourist.

57. (1) Tourist and Travellers shall provide their details, family members or persons accompanying them with necessary declaration of health and travel details and disclose details of accommodation availed for the purpose of tourist facilitation.
- (2) Travel Cards issued online following submission of relevant information be carried by tourists and shown at Tourist Information Centres, to facilitate guidance or to Tourism Enforcement Officers or Tourist Police to enable them, aid and advice of facilitate their travel and stay as also for ensuring

safety, security and enable issue of permits for travel to restricted or protected areas.

Role of Stakeholders.

58. (1) Stakeholders such a tour operator, hotels adventure operators, MICE facilitators, health and wellness service providers and such other partner agencies providing facility and tourist services shall make an effort to promote eco-friendly and sustainable tourism and promote the goodwill and build Sikkim tourism as a preferred brand.
- (2) Proactive assistance is rendered to tourist in the course of availing various services and facilitating them in submission of information for issue of travel cards and permits.
- (3) Online permits would be considered for issue on the basis of information furnished by tourists.

Power to remove difficulties.

59. If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order, remove such difficulty:

Provided that no such order shall be made after expiration of a period of two years from the date of commencement of the Act.

CHAPTER - X

MISCELLANEOUS

Display of Registration or License.

60. The certificate of registration or licence of tourist operation shall be displayed in a noticeable place at the principal place of business of tourism entities or establishments.

Obtaining copies or duplicate certificates.

61. If the certificate of registration, renewal of registration, licence, renewal of licence issued is destroyed, damaged, lost, the person, or such entity shall lodge First Information Report (FIR) for the same and submit the First Information Report copy along with the application to the prescribed authority for obtaining a duplicate. The prescribed authority shall after receiving the same issue a duplicate certificate on payment of prescribed fee.

CHAPTER - XI

REPEAL AND SAVINGS

Repeal and savings.

62. (1) The Sikkim Registration of Tourist Trade Act, 1998 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken in a bonafide manner under the said Act shall be deemed to have been done or taken under this Act.

Suraj Chettri (SSJS)
L.R.-cum-Secretary
Law & Parliamentary Affairs Department.